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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/606,787	06/28/2000	Bich Nguyen	2705-125	6324

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MARGER JOHNSON & MCCOLLOM PC
1030 SW MORRISON STREET
PORTLAND, OR 97205

EXAMINER
HALIM, SAHERA

ART UNIT	PAPER NUMBER
2157	2

DATE MAILED: 05/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/606,787	NGUYEN ET AL.	
	Examiner	Art Unit	
	Sahera Halim	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 June 2000* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on *28 June 2000* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

1. Claims 1- 17 have been examined.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show numeral 250 on figure 2, as described in the specification on page 2, line 17, and 20. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Applicant Admitted Prior Art" (AAPA).

5. Reference to claim 1, (AAPA) discloses a server for transmitting stored data to a network, comprising (Fig. 1 and page 1, line 34 - 12):

a transmit buffer for transmitting the stored data to the network (Fig. 1 and page 1, line 34 - 12);

AAPA modifies the prior art by adding a network bandwidth monitor for monitoring a bandwidth of the network; and

a transcoder for transcoding the stored data if the monitored bandwidth is less than a first preset value.

However, Hinchley discloses a network bandwidth monitor for monitoring a bandwidth of the network (abstract and col. 1, line 62 – col. 2, line 24); and

a transcoder for transcoding the stored data if the monitored bandwidth is less than a first preset value (abstract and col. 1, line 62 – col. 2, line 24).

It would have been obvious for one having ordinary skill in the art at the time of the invention to combine the teachings of Hinchley and AAPA in order to achieve accurate feedback in AAPA system to be used to ensure optimal bit rate is continuously achieved by the system (abstract).

6. Regarding claim 10, AAPA discloses an article comprising: a storage medium, said storage medium having stored thereon instructions for a server to transmit a portion of streaming media to a network, that, when executed by a computing device, result in transmitting the portion to the network (Fig. 1 and page 1, line 34 – 12);

AAPA fails to disclose monitoring a bandwidth of the network; and

transcoding the portion prior to transmitting if the monitored bandwidth is less than a first preset value.

However, Hinchley discloses monitoring a bandwidth of the network (abstract and col. 1, line 62 – col. 2, line 24); and

transcoding the portion prior to transmitting if the monitored bandwidth is less than a first preset value (abstract and col. 1, line 62 – col. 2, line 25).

It would have been obvious for one having ordinary skill in the art at the time of the invention to combine the teachings of Hinchley and AAPA in order to achieve accurate feedback in AAPA to be used to ensure optimal bit rate is continuously achieved by the system (abstract).

7. Regarding claim 14, since claim 14 has the similar limitations as claim 10, it is rejected based on the same rational.

8. Regarding claims 2, AAPA does not teach the monitoring means includes a control unit for activating the transcoder when the monitored bandwidth is less than the first preset value. Nonetheless, Hinchley teaches the monitoring means includes a control unit for activating the transcoder when the monitored bandwidth is less than the first preset value (abstract, col. 1, line 62 – col. 2, line 25, and col. 4, line 17 – 53). It would have been obvious for one having ordinary skill in the art at the time of the invention to enhance the teachings of AAPA by including the control unit for activating the transcoder into the monitoring means because it adjusts the bit rates of the encoder for optimal bit rate (abstract).

9. Regarding claims 11 and 15, Ravi does not disclose activating a transcoder when the monitored bandwidth is less than the first preset value. However, Hinchley discloses activating a transcoder when the monitored bandwidth is less than the first preset value (col. 4, line 17 – 53 and abstract). It would have been obvious for one having ordinary skill in the art at the time of the invention to include this limitation to Ravi system in order adjust the bandwidth effectively.

10. Regarding claim 3, AAPA and Hinchley do not teach a redundancy encoder for redundancy encoding the transcoded data if the monitored bandwidth is less than a second preset value. However, redundancy encoding is well known in the art and it would have been obvious for one having ordinary skill in the art at the time of the invention to include redundancy encoding the transcoded data if the monitored bandwidth is less than a second preset value in order to assure that the required bandwidth is achieved in case the encoder fails to achieve the required bandwidth.

11. Reference to claims 12 and 16, AAPA and Hinchley do not disclose redundancy encoding the transcoded portion if the monitored bandwidth is less than a second preset value. However, redundancy encoding is well known in the art and it would have been obvious for one having ordinary skill in the art at the time of the invention to include redundancy encoding the transcoded dated it the monitored bandwidth is less than a second preset value in order to assure that the required bandwidth is achieved in case the encoder fails to achieve the required bandwidth.

12. Regarding claim 4, AAPA and Hinchley do not teach a control unit for activating the redundancy encoder when the monitored bandwidth is less than the second preset value. However, it would have been obvious for a person having ordinary skill in the art at time of the invention to include activating the redundancy encoder when the monitored bandwidth is less than the second preset value in order to assure the required bandwidth is achieved.

13. Reference to claim 12 and 16, AAPA and Hinchley do not teach redundancy encoding the transcoded portion if the monitored bandwidth is less than a second preset value. However, it would have been obvious for a person having ordinary skill in the art at time of the invention to include activating the redundancy encoder when the monitored bandwidth is less than the second preset value in order to assure the required bandwidth is achieved.

14. Regarding claim 5, the first preset value equals the second preset value. AAPA and Hinchley do not teach the first preset value equals the second preset value. However, since the specification does not provide an advantageous for this limitation, it would have been obvious to equate the first and second preset values or make the second preset value greater than or less than the first preset value. It would have obvious to pick any of the above choices based on specific conditions.

15. Regarding claims 13 and 17, AAPA and Hinchley do not teach activating a redundancy encoder when the monitored bandwidth is less than the second preset value. However, it would have been obvious for one having ordinary skill in the art at time of the invention to activate the

redundancy encoder when the monitored bandwidth is less than the second preset value to ensure the adjustment of required bandwidth.

16. Regarding claim 6, AAPA disclose a server for transmitting data to a network, comprising:

transmitting means for transmitting the data to the network (Fig. 1 and page 1, line 34 - 12);

AAPA does not disclose monitoring means for monitoring a bandwidth of the network;

transcoding means for transcoding the data if the monitored bandwidth is less than a first preset value; and

redundancy encoding means for redundancy encoding the transcoded data prior to transmission if the monitored bandwidth is less than a second preset value. However, Hinchley discloses monitoring means for monitoring a bandwidth of the network (abstract and clol1, line 62 – col. 2, line 24);

transcoding means for transcoding the data if the monitored bandwidth is less than a first preset value (abstract and clol1, line 62 – col. 2, line 24).

Having the teachings of Hinchley and AAPA, it would have been obvious for one having ordinary skill in the art at the time of the invention to combine the teachings of Hinchley and AAPA in order to achieve accurate feedback in AAPA system to be used to ensure optimal bit rate is continuously achieved by the system (abstract). Moreover, Hinchley and AAPA do not teach redundancy encoding means for redundancy encoding the transcoded data prior to transmission if the monitored bandwidth is less than a second preset value. However,

redundancy encoding is well known in the art and it would have been obvious for one having ordinary skill in the art at the time of the invention to include redundancy encoding for redundancy encoding the transcoded data prior to transmission if the monitored bandwidth is lees than a second preset value in order to assure that the required bandwidth is achieved, in case the encoder fails to achieve the required bandwidth.

17. Claim 7 has the same limitation as claim 5 and therefore, it is rejected based on the same rational.

18. Regarding claim 8, AAPA does not disclose a control unit for activating the transcoding means when the monitored bandwidth is less than the first preset value and for activating the redundancy encoding means when the monitored bandwidth is less than the second preset value.

Nonetheless, Hinchley discloses activating the transcoding means when the monitored bandwidth is less than the first preset value (abstract and col. 4, line 17 – 53). It would have been obvious for one having ordinary skill in the art at the time of the invention to include this limitation to Ravi system in order adjust the bandwidth effectively. Moreover, AAPA and Hinchley do not disclose a control unit for activating the redundancy encoding means when the monitored bandwidth is less than the second preset value. However, it would have been obvious for a person having ordinary skill in the art at time of the invention to include activating the redundancy encoder means when the monitored bandwidth is less than the second preset value in order to assure the required bandwidth is achieved.

19. Claim 9 has the same limitation as claim 5 and 7 and therefore, it is rejected based the same rational.

Conclusion

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 5,534925 to Zhong

U.S. Pat. No. 6,021,449 to Chow et al.

U.S. Pat. No. 6,292,834 to Ravi et al.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sahera Halim whose telephone number is (703) 305-8054. The examiner can normally be reached on M-F from 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached at (703) 308-7562. The fax numbers for the organization where this application or proceeding is assigned are (703) 305-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Sahera Halim
Patent Examiner
AU: 2157

May 19, 2003

ARIO ETIENNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100